

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)

Assessment and Collection of Regulatory Fees for)
Fiscal Year 2012)

MD Docket No. 12-116

MAILED

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FCC Mail Room

REPORT AND ORDER

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By the Commission:

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I. INTRODUCTION AND SUMMARY

1. In this *Report and Order*, we conclude the process of assessing and collecting regulatory fees for Fiscal Year (“FY”) 2012 to collect \$339,844,000 in regulatory fees for FY 2012. Section 9(a)(1) of the Communications Act of 1934, as amended (the “Act”) directs the Commission to collect regulatory fees “to recover the costs of ... enforcement activities, policy and rulemaking activities, user information services, and international activities.”¹ Section 9(a)(2) stipulates that regulatory fees for the enumerated activities “shall be collected only if, and only in the total amounts, required in Appropriation Acts,” and must “be established in amounts that will result in collection, during each fiscal year, of any amount that can be reasonably be expected to equal the amount appropriated” for the performance of the activities enumerated in section 9(a)(1) during that fiscal year. Since FY 2009, Congress has directed the Commission to assess and collect regulatory fees in an amount equal to the entire amount appropriated.² Congress appropriated \$339,844,000 for the Commission in FY 2012,³ and the regulatory fees established in this *FY 2012 Report and Order* are calculated so as to collect this entire amount.⁴ In this annual regulatory fee proceeding, we retain many of the current methods, policies, and procedures for collecting section 9 regulatory fees adopted by the Commission in prior years. Consistent with our established practice, we intend to collect these regulatory fees during a September 2012 filing window in order to collect the required amount by the end of our fiscal year.⁵

2. In this *FY 2012 Report and Order*, we address the following issues: 1) incorporating 2010 Census data into our broadcast population data, 2) assessing a regulatory fee for each broadcasting facility operating either in an analog or digital mode (but not both) for Low Power, Class A, and TV Translators/Boosters, 3) maintaining the FY 2012 Interstate Telecommunications Service Provider (ITSP) fee rate at the same level as in FY 2011, 4) using an online filing system for the filing of requests for a refund, waiver, fee reduction, or deferment of payment of an application or regulatory fee, 5) maintaining the Commercial Mobile Radio Service (“CMRS”) Messaging Service at the rate of \$.08 per subscriber,

¹ 47 U.S.C. § 159(a).

² Omnibus Appropriations Act of 2009, Pub. L. No. 111-8, 123 Stat. 524, 657 (2009).

³ Consolidated Appropriations Act of 2012, Pub. L. No. 112-74, Div. C, Title V (December 23, 2011).

⁴ In FY 2011, the Commission’s collection target goal was \$335,794,000, and it collected \$342.04 million through September 30, 2011. Any over collection amount is unavailable for obligation pursuant to Public Law 112-74 (HR 2055), *Consolidated Appropriations Act 2012*, page 124.

⁵ The Commission also expects to release in the near future a *Notice of Proposed Rulemaking* that will propose to update our current cost allocation percentages and revise our cost allocation methodology. We expect to implement any changes that result from this rulemaking in FY 2013; they do not affect the fees set in this *FY 2012 Report and Order*.

and 6) the Commission will continue to promote greater use of technology (and less use of paper) in improving its regulatory fee notification and collection processes. The resulting FY 2012 Schedule of Regulatory Fees appears in Attachment C.

II. REPORT AND ORDER

3. In this *FY 2012 Report and Order*, we retain the same regulatory fee methodology used in FY 2011 and in prior fiscal years, with some adjustments to maintain the FY 2012 ITSP fee rate at the same level as in FY 2011. These adjustments are reflected in the ITSP fee rate, as well as in the fee rates of all remaining fee categories listed in Attachment C.

4. Since FY 1999, the Commission has allocated the amount appropriated by Congress across the various fee categories, and then divided these allocated amounts by the number of estimated payment units in each fee category to determine the unit fee.⁶ As in prior years, for cases involving small multiyear fees (e.g., licenses that are renewed over a multiyear term), we divided the allocated amounts by their respective estimated payment units, as well as by the term of the license (5-year or 10-year) to determine the unit fee, which was then rounded to be consistent with the requirements of section 9(b)(2)(B) of the Act. This process is illustrated in Attachment B and yields the FY 2012 regulatory fees shown in Attachment C.

5. We then calculated the number of payment units subject to the fee. In some instances, Commission licensee databases were used in calculating payment units; in other instances, actual prior year payment records and/or industry and trade association projections were used.⁷ Where appropriate, we adjusted and rounded our final estimates to take into account factors that could affect the number of units for which a fee is paid⁸. Such factors include waivers and exemptions filed in FYs 2011 and 2012, as well as fluctuations in the number of licenses or station operators due to economic, technical, or other reasons. Our estimated FY 2012 payment units, therefore, were adjusted to account for the variable factors relevant to each fee category. The fee rate may also have been rounded or adjusted slightly to reflect these variables.

6. On May 4, 2012, we released the *FY 2012 Notice of Proposed Rulemaking*⁹ to seek comment on the proposed FY 2012 regulatory fees. We received two comments and no reply comments. We address the issues raised in our *FY 2012 Notice of Proposed Rulemaking* and the comments received below.

A. Regulatory Fee Obligations for AM and FM Radio Stations

7. The fee methodology for AM and FM radio stations is based on a number of factors, including facility attributes (e.g. power, channel/frequency) and the population served by each station. The calculation of the population served is determined by applying current United States Census Bureau data to the station's technical and engineering data, as detailed in Attachment E. In FY 2012, the Commission will incorporate the results of the 2010 Census data into our broadcast population data, which could precipitate a change in population count for some radio stations. These population counts, along with the station's class and type of service, are the basis for determining regulatory fees. We

⁶ In many instances, the regulatory fee amount is a flat fee per licensee or regulatee. In some instances, the fee amount represents a per-unit fee (such as for International Bearer Circuits), a per-unit subscriber fee (such as for Cable, Commercial Mobile Radio Service ("CMRS") Cellular/Mobile and CMRS Messaging), or a fee factor per revenue dollar (Interstate Telecommunications Service Provider ("ITSP") fee). The payment unit is the measure upon which the fee is based, such as a licensee, regulatee, or subscriber fee.

⁷ See Attachment D for a list of databases we consulted.

⁸ The use of "regulatee" in this Order refers to any payor of regulatory fees.

⁹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, Notice of Proposed Rulemaking, 77 FR 29275 (May 17, 2012) ("*FY 2012 Regulatory Fees NPRM*").

sought comment, but did not receive any on this issue. We conclude that the 2010 census data should be incorporated into our broadcast population data when determining regulatory fees.

B. Regulatory Fee Obligations for Digital Low Power, Class A, and TV Translators/Boosters

8. The digital transition to full-service television stations was completed on June 12, 2009, but Low Power, Class A, and TV Translators/Boosters are not required to make the digital transition until September 1, 2015. Historically, we have only considered the digital transition in the context of regulatory fees applicable to full-service television stations. Consequently, the “digital only” exemption does not apply to Low Power, Class A, and TV Translator/Booster facilities. Because the digital transition in the Low Power, Class A, and TV Translator/Booster facilities is still voluntary, these facilities may transition from analog to digital service at varying times prior to September 1, 2015. During this period of transition, licensees of Low Power, Class A, and TV Translator/Booster facilities may be operating in analog mode, in digital mode, or in an analog and digital simulcast mode. We sought comment on how this should be reflected in the regulatory fees paid by licensees of these facilities, but we did not receive any comments in response. In the absence of comment, we conclude that a single fee will be assessed for each facility regardless of whether it transmits in analog or digital mode, digital mode, or simulcasting in both analog and digital modes. As more of these facilities convert to digital mode, the Commission will revisit how regulatory fees will be assessed.

C. Regulatory Fee Obligations of Interstate Telecommunications Service Providers

9. In our *FY 2011 Report and Order*, we assessed the Interstate Telecommunications Service Provider (“ITSP”) industry a regulatory fee of \$.00375 per revenue dollar. This fee reflected the Commission’s decision to limit the increase in ITSP regulatory fees in light of the continuing decrease in the revenue base upon which ITSP regulatory fees are calculated, and pending a more comprehensive rebalancing of ITSP fees as part of our reexamination of the factual and methodological predicates of our regulatory fee program. This reexamination will commence shortly. For that reason we proposed in our *FY 2012 Notice of Proposed Rulemaking* to assess FY 2012 ITSP regulatory fees at the same fee rate as in FY 2011, and to allocate the remaining revenue requirement across all other fee categories.¹⁰

10. We received one comment from the United States Telecom Association (“USTA”). USTA supports the Commission’s effort to rebalance its regulatory fee structure, including updating the calculation of full-time equivalents (“FTEs”) and adjusting the way costs are currently allocated.¹¹ USTA also contends that today’s separate communication platforms, e.g. wireless, cable, and wireline, are capable of providing similar communication services, and it is therefore critical for the Commission to establish fee parity among the providers utilizing these platforms.¹²

11. We have initiated a separate proceeding in which we are requesting comment on these and other issues.¹³ Because we expect to use the comments that are received and other data in setting next year’s regulatory fees, we will adopt our proposal to maintain the FY 2012 ITSP fee rate in the interim at the FY 2011 rate of .00375.

D. Improving Public Information on Waiver Requests and Decisions

12. In our *FY 2012 Notice of Proposed Rulemaking*, we sought comment on requiring

¹⁰ See *FY 2012 Regulatory Fees NPRM*, at para. 17.

¹¹ United States Telecom Association, at page 1.

¹² USTA at page 1-2.

¹³ *In the Matter of Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Notice of Proposed Rulemaking*, FCC 12-77, MD Docket No. 12-201 (released on July 17, 2012).

regulatees filing a request for a refund, waiver, fee reduction, or deferment of payment of an application or regulatory fee to use an online filing system rather than submitting their requests in hardcopy format.¹⁴ We believe that an online filing system will complement other existing online Commission systems already in place, such as the Broadcast Radio and Television Electronic Filing System (more commonly referred to as CDBS), the Cable Operations and Licensing System (COALS), and Consumer Complaint Forms. The resulting fee waiver filing system will include such documents as the filed request, any relevant supporting documentation, and the resulting decision. We also proposed to apply the provisions of section 0.459 to requests that electronically-filed material be withheld from public inspection.¹⁵

13. We received no comments on this issue. We will therefore adopt our proposal and require that all requests for refunds, waivers, fee reductions, or deferments of payment be filed using an online system. We direct the Office of Managing Director to take the necessary steps to assist regulatees in transitioning to electronic filing.

E. Commercial Mobile Radio Services (“CMRS”) Messaging Service

14. In response to our *FY 2012 Notice of Proposed Rulemaking*, the Commission received a comment from the Critical Messaging Association (“CMA”) regarding the CMRS messaging service regulatory fee category. CMA contends that even though the Commission has not acted on its *FY 2008 Further Notice of Proposed Rulemaking* to review, among other things, the CMRS messaging service fee category, the Commission should maintain the CMRS messaging fee at \$.08 per subscriber as a minimum appropriate action to take in FY 2012.¹⁶ As stated in paragraph 11, we anticipate revising our regulatory fee program in time to calculate FY 2013 fees. For that reason, and because we agree with CMA that the prevailing circumstances in FY 2003 still exist today,¹⁷ we find it appropriate that the FY 2012 CMRS Messaging regulatory fee remain at a rate of \$.08 per subscriber.

F. Administrative and Operational Issues

15. In FY 2009, the Commission implemented several procedural changes that simplified the payment and reconciliation processes of regulatory fees. In FY 2012, the Commission will continue to promote greater use of technology (and less use of paper) in improving our regulatory fee notification and collection processes. We sought comment on how we might do this, but we received no specific comment in response. Accordingly, the Commission will continue its own efforts to promote greater efficiency in its regulatory fee notification and collection processes, subject to appropriate notice and comment.

16. In FY 2009, we instituted a mandatory filing requirement using the Commission’s electronic filing and payment system (also known as “Fee Filer”).¹⁸ Regulatees filing their annual regulatory fee payments were required to begin the process by entering the Commission’s Fee Filer

¹⁴ See *FY 2012 Regulatory Fees NPRM* at para. 18.

¹⁵ Specifically, section 0.457(a) (2) through (g) describe, *inter alia*, how confidential material should be submitted electronically, what showings must be made to justify withholding electronically-submitted information from public inspection, and how the Commission will resolve confidentiality requests.

¹⁶ The Critical Messaging Association at page 1.

¹⁷ Beginning in FY 2003, the Commission maintained the paging regulatory fee rate at \$.08 per subscriber, the same level as in FY 2002, and it has maintained this level of \$.08 per subscriber for all subsequent years. See *Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order*, 18 FCC Rcd 15988 ¶¶ 21-22 (2003) (*FY 2003 Report and Order*).

¹⁸ See *Assessment and Collection of Regulatory Fees for Fiscal Year FY 2009, Report and Order* 24 FCC Rcd 10301 at paras. 20 and 21 (“*FY 2009 Report and Order*”).

system with a valid FCC Registration Number (“FRN”) and password.¹⁹ This change, which required regulatees to use Fee Filer for the *filing* of annual regulatory fees, not the *payment* of such regulatory fees²⁰ was beneficial to both licensees and to the Commission. For licensees, the mandatory use of Fee Filer eliminates the need to manually complete and submit a hardcopy Form 159, and for the Commission, the data in electronic format makes it much easier to process payments efficiently and effectively. We sought comment on how to improve the mandatory use of Fee Filer for filing annual regulatory fees. We received no specific comments or reply comments on this issue. Accordingly, we will continue our own efforts to refine our fee filing and payment procedures, subject to appropriate notice and comment.

III. FEE COLLECTION PROCEDURES

17. Included below are procedural items as well as our current payment and collection methods which we have revised over the past several years to expedite the processing of regulatory fee payments. We do not propose changes to these procedures. Rather, we include them here as a useful way of reminding regulatory fee payers and the public about these aspects of the annual regulatory fee collection process.

A. Public Notices and Fact Sheets

18. Each year we post public notices and fact sheets pertaining to regulatory fees on our website. These documents contain information about the payment due date and relevant regulatory fee payment procedures. We will continue to post this information on <http://transition.fcc.gov/fees/regfees.html>, rather than mailing it to regulatees.

B. Pre-Bill Notification and Collection of Regulatory Fees

19. In prior years, the Commission mailed pre-bills via surface mail to regulatees in select regulatory fee categories: ITSPs, Geostationary (“GSO”) and Non-Geostationary (“NGSO”) satellite space station licensees,²¹ holders of Cable Television Relay Service (“CARS”) licenses, and Earth Station licensees.²² The remaining regulatees did not receive pre-bills. In our *FY 2009 Report and Order*, the Commission decided to make the information contained in these pre-bills viewable in Fee Filer, rather than mailing pre-bills to licensees via surface mail.²³ We continued this practice in FY 2010 and FY 2011 by placing the pre-bill information on Fee Filer, where it could be accessed by regulatees through the Commission’s website. Regulatees can also look to the Commission’s website for information on upcoming events and deadlines relating to regulatory fees.

¹⁹ In order to do this, licensees must have a current and valid FRN address on file in the Commission’s Registration System (CORES).

²⁰ Regulatees have different options when making a payment, including credit card, check, and wire transfer.

²¹ Geostationary orbit space station (“GSO”) licensees received regulatory fee pre-bills for satellites that (1) were licensed by the Commission and operational on or before October 1 of the respective fiscal year; and (2) were not co-located with and technically identical to another operational satellite on that date (*i.e.*, were not functioning as a spare satellite). Non-geostationary orbit space station (“NGSO”) licensees received regulatory fee pre-bills for systems that were licensed by the Commission and operational on or before October 1 of the respective fiscal year.

²² A pre-bill is considered an account receivable in the Commission’s accounting system. Pre-bills reflect the amount owed and have a payment due date of the last day of the regulatory fee payment window. Consequently, if a pre-bill is not paid by the due date, it becomes delinquent and is subject to our debt collection procedures. *See also* 47 C.F.R. §§ 1.1161(c), 1.1164(f)(5), and 1.1910.

²³ *See FY 2009 Report and Order* at ¶¶ 24, 26.

C. Assessment Notifications

1. Media Services Licensees

20. Beginning in FY 2003, we sent fee assessment notifications via surface mail to media services entities on a per-facility basis.²⁴ These notifications provided the assessed fee amount for the facility in question, as well as the data attributes that determined the fee amount. We have since refined this initiative to be more electronic and paperless.²⁵ In our *FY 2010 Notice of Proposed Rulemaking*, we sought comment to discontinue mailing the media notifications beginning in FY 2011, relying instead on information on the Commission's website and the use of the Commission-authorized website at www.fccfees.com.²⁶ We received no comments or reply comments in FY 2010, and beginning in FY 2011, we discontinued the mailing of fee assessment notifications via surface mail to media service entities. In FY 2012, we will continue the practice of not mailing hardcopy notification assessment letters to media licensees.

2. CMRS Cellular and Mobile Services Assessments

21. We will continue to follow our current procedures for conveying CMRS subscriber counts to providers. We will mail an initial assessment letter to Commercial Mobile Radio Service (CMRS) providers using data from the Numbering Resource Utilization Forecast ("NRUF") report that is based on "assigned" number counts that have been adjusted for porting to net Type 0 ports ("in" and "out").²⁷ The letter will include a listing of the carrier's Operating Company Numbers ("OCNs") upon which the assessment is based.²⁸ The letters will not include OCNs with their respective assigned number counts, but rather, an aggregate total of assigned numbers for each carrier.

22. A carrier wishing to revise its subscriber count can do so by accessing Fee Filer after receiving its initial CMRS assessment letter. Providers should follow the prompts in Fee Filer to record their subscriber revisions, along with any supporting documentation.²⁹ The Commission will then review the revised count and supporting documentation and either approve or disapprove the submission in Fee Filer. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide additional supporting documentation. If we receive no response or correction to the initial assessment letter, or we do not reverse our initial disapproval of the provider's revised count submission, we expect the fee payment to be based on the number of subscribers listed on the initial assessment letter. Once the timeframe for revision has passed, the subscriber counts are final and are the basis upon which CMRS regulatory fees are expected to be paid. Providers can also view their final subscriber counts online in Fee Filer. A final CMRS assessment

²⁴ An assessment is a proposed statement of the amount of regulatory fees owed by an entity to the Commission (or proposed subscriber count to be ascribed for purposes of setting the entity's regulatory fee), but it is not entered into the Commission's accounting system as a current debt.

²⁵ Those refinements include providing licensees with a Commission-authorized website where they can update or correct any information concerning their facilities, and amend their fee-exempt status, if need be. The notifications also provide licensees with a telephone number to call in the event that they need customer assistance.

²⁶ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2010*, Report and Order, 25 FCC Rcd 9278 at para. 42 (2010) ("*FY 2010 Report and Order*")

²⁷ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005 and Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, MD Docket Nos. 05-59 and 04-73, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, ¶¶ 38-44 (2005).

²⁸ *Id.*

²⁹ In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change.

letter will not be mailed out.

23. Because some carriers do not file the NRUF report, they may not receive an initial assessment letter. In these instances, the carriers should compute their fee payment using the standard methodology³⁰ that is currently in place for CMRS Wireless services (*e.g.*, compute their subscriber counts as of December 31, 2011), and submit their fee payment accordingly. Whether a carrier receives an assessment letter or not, the Commission reserves the right to audit the number of subscribers for which regulatory fees are paid. In the event that the Commission determines that the number of subscribers paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

D. Streamlined Regulatory Fee Payment Process

1. Cable Television

24. The Commission will continue to permit cable television operators to base their regulatory fee payment on their company's aggregate year-end subscriber count, rather than requiring them to report cable subscriber counts on a per community unit identifier ("CUID") basis. This significantly lessens the cable operators' burden in calculating and paying their regulatory fees.

2. CMRS Cellular and Mobile Providers

25. In FY 2006, we streamlined the CMRS payment process by eliminating the requirement for CMRS providers to identify their individual call signs when making their regulatory fee payment, instead allowing CMRS providers to pay their regulatory fees only at the aggregate subscriber level without having to identify their various call signs.³¹ We will continue this practice in FY 2012. In FY 2007, we consolidated the CMRS cellular and CMRS mobile fee categories into one fee category with a single fee code, thereby eliminating the requirement for CMRS providers to separate their subscriber counts into CMRS cellular and CMRS mobile fee categories during the regulatory fee payment process. This consolidation of fee categories enabled the Commission to process payments more quickly and accurately. For FY 2012, we will continue this practice of combining the CMRS cellular and CMRS mobile fee categories into one regulatory fee category.

3. Interstate Telecommunications Service Providers

26. In FY 2007, we adopted a proposal to round lines 14 (total subject revenues) and 16 (total regulatory fee owed) on FCC Form 159-W worksheet to the nearest dollar. This revision enabled the Commission to process the ITSP regulatory fee payments more quickly because rounding was performed in a consistent manner, thereby eliminating processing issues. For FY 2012, we will continue to round lines 14 and 16 when calculating the FY 2012 ITSP fee obligation. In addition, we will continue the practice of not mailing out Form 159-W via surface mail.

E. Payment of Regulatory Fees

1. Lock Box Bank

27. All lock box payments to the Commission for FY 2012 will be processed by U.S. Bank, St. Louis, Missouri, and payable to the FCC. During the fee season for collecting FY 2012 regulatory fees, regulatees can pay their fees by credit card through Pay.gov,³² by check, money order, or debit

³⁰ See, *e.g.*, Federal Communications Commission, *Regulatory Fees Fact Sheet: What You Owe - Commercial Wireless Services for FY 2011* at 1 (rel. September 2011).

³¹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, MD Docket No. 06-68, Report and Order, 21 FCC Rcd 8092, 8105, ¶ 48 (2006).

³² In accordance with U.S. Treasury Financial Manual Announcement No. A-2012-02, the U.S. Treasury will reject credit card transactions greater than \$49,999.99 from a single credit card in a single day. This includes online (continued....)

card,³³ or by placing their credit card number on Form 159-E (Remittance Advice form) and mailing their fee and accompanying Form 159-E to the following address: Federal Communications Commission, Regulatory Fees, P.O. Box 979084, St. Louis, MO 63197-9000. Additional payment options and instructions are posted at <http://transition.fcc.gov/fees/regfees.html>.

2. Receiving Bank for Wire Payments

28. The receiving bank for all wire payments is the Federal Reserve Bank, New York, New York (TREAS NYC). When making a wire transfer, regulatees must fax a copy of their Fee Filer generated Form 159-E to U.S. Bank, St. Louis, Missouri at (314) 418-4232 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at <http://transition.fcc.gov/fees/wiretran.html>.

3. De Minimis Regulatory Fees

29. Regulatees whose total FY 2012 regulatory fee liability, including all categories of fees for which payment is due, is less than \$10 are exempted from payment of FY 2012 regulatory fees.

4. Standard Fee Calculations and Payment Dates

30. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services*: Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2011 for AM/FM radio stations, VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2011. In instances where a permit or license is transferred or assigned after October 1, 2011, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireline (Common Carrier) Services*: Regulatory fees must be paid for authorizations that were granted on or before October 1, 2011. In instances where a permit or license is transferred or assigned after October 1, 2011, responsibility for payment rests with the holder of the permit or license as of the fee due date. We note that audio bridging service providers are included in this category.³⁴

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transactions conducted via Pay.gov, transactions conducted via other channels, and direct-over-the counter transactions made at a U.S. Government facility. Individual credit card transactions larger than the \$49,999.99 limit may not be split into multiple transactions using the same credit card, whether or not the split transactions are assigned to multiple days. Splitting a transaction violates card network and Financial Management Service (FMS) rules. However, credit card transactions exceeding the daily limit may be split between two or more different credit cards. Other alternatives for transactions exceeding the \$49,999.99 credit card limit include payment by check, electronic debit from your bank account, and wire transfer.

³³ In accordance with U.S. Treasury Financial Manual Announcement No. A-2012-02, the maximum dollar-value limit for debit card transactions will be eliminated. It should also be noted that only Visa and MasterCard branded debit cards are accepted by Pay.gov.

³⁴ Audio bridging services are toll teleconferencing services, and audio bridging service providers are required to contribute directly to the Universal Service Fund based on revenues from these services. On June 30, 2008, the Commission released the *InterCall Order*, in which the Commission stated that InterCall, Inc. and all similarly situated audio bridging service providers are required to contribute directly to the Universal Service Fund. See *Request for Review by InterCall, Inc. of Decision of Universal Service Administrator*, CC Docket No. 96-45, Order, 23 FCC Rcd 10731 (2008) ("*InterCall Order*").

- *Wireless Services:* CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2011. The number of subscribers, units, or telephone numbers on December 31, 2011 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2011, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- The first eleven regulatory fee categories in our Schedule of Regulatory Fees (*see* Attachment C) pay “small multi-year wireless regulatory fees.” Entities pay these regulatory fees in advance for the entire amount of their five-year or ten-year term of initial license, and only pay regulatory fees again when the license is renewed or a new license is obtained. We include these fee categories in our Schedule of Regulatory Fees to publicize our estimates of the number of “small multi-year wireless” licenses that will be renewed or newly obtained in FY 2012.
- *Multichannel Video Programming Distributor Services (cable television operators and CARS licensees):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2011.³⁵ Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2011. In instances where a permit or license is transferred or assigned after October 1, 2011, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services:* Regulatory fees must be paid for earth stations, geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2011. In instances where a permit or license is transferred or assigned after October 1, 2011, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services: Submarine Cable Systems:* Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on circuit capacity as of December 31, 2011. In instances where a license is transferred or assigned after October 1, 2011, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2012 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.
- *International Services: Terrestrial and Satellite Services:* Finally, regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, 2011 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. “Active circuits” for these purposes include backup and redundant circuits as of December 31, 2011. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active

³⁵ Cable television system operators should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, *etc.*) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on “a typical day in the last full week” of December 2011, rather than on a count as of December 31, 2011.

circuits. In instances where a permit or license is transferred or assigned after October 1, 2011, responsibility for payment rests with the holder of the permit or license as of the fee due date. For regulatory fee purposes, the allocation in FY 2012 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

F. Enforcement

31. To be considered timely, regulatory fee payments must be received and stamped at the lockbox bank by the due date of regulatory fees. Section 9(c) of the Act requires us to impose a late payment penalty of 25 percent of the unpaid amount to be assessed on the first day following the deadline date for filing of these fees.³⁶ Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in section 1.1910 of the Commission's Rules³⁷ and in the Debt Collection Improvement Act of 1996 ("DCIA").³⁸ We also assess administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the related debt pursuant to the DCIA and section 1.1940(d) of the Commission's Rules.³⁹ These administrative processing charges will be assessed on any delinquent regulatory fee, in addition to the 25 percent late charge penalty. In case of partial payments (underpayments) of regulatory fees, the payor will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.

32. We will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made.⁴⁰ Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).

IV. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Analysis

33. As required by the Regulatory Flexibility Act of 1980 ("RFA"),⁴¹ the Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA") relating to this Report and Order. The FRFA is set forth in Attachment F.

B. Final Paperwork Reduction Act of 1995 Analysis

34. This *Report and Order* does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506 (c) (4).

³⁶ 47 U.S.C. § 159(c).

³⁷ *See* 47 C.F.R. § 1.1910.

³⁸ Delinquent debt owed to the Commission triggers application of the "red light rule" which requires offsets or holds on pending disbursements. 47 C.F.R. § 1.1910. In 2004, the Commission adopted rules implementing the requirements of the DCIA. *See Amendment of Parts 0 and 1 of the Commission's Rules*, MD Docket No. 02-339, Report and Order, 19 FCC Rcd 6540 (2004); 47 C.F.R. Part 1, Subpart O, Collection of Claims Owed the United States.

³⁹ 47 C.F.R. § 1.1940(d).

⁴⁰ *See* 47 C.F.R. §§ 1.1161(c), 1.1164(f)(5), and 1.1910.

⁴¹ *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 ("CWAAA").

C. Congressional Review Act Analysis

35. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.⁴²

V. ORDERING CLAUSES

36. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 159, and 303(r), this *Report and Order* IS HEREBY ADOPTED.

37. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis in Attachment F, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴² See 5 U.S.C. § 801(a)(1)(A). The Congressional Review Act is contained in Title II, § 251, of the CWAAA; see Pub. L. No. 104-121, Title II, § 251, 110 Stat. 868.

ATTACHMENT A**List of Commenters**

Commenter	Abbreviated name
Critical Messaging Association	"CMA"
The United States Telecom Association	"USTA"

ATTACHMENT B

Calculation of FY 2012 Revenue Requirements and Pro-Rata Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	FY 2012 Payment Units	Years	FY 2011 Revenue Estimate	Pro-Rated FY 2012 Revenue Require- ment	Computed New FY 2012 Regulatory Fee	Rounded New FY 2012 Regula- tory Fee	Expected FY 2012 Revenue
PLMRS (Exclusive Use)	1,400	10	480,000	501,024	36	35	490,000
PLMRS (Shared use)	15,000	10	2,120,000	2,397,759	16	15	2,250,000
Microwave	13,200	10	2,550,000	2,361,972	18	20	2,640,000
218-219 MHz (Formerly IVDS)	5	10	1,950	3,579	72	70	3,500
Marine (Ship)	6,550	10	670,000	787,324	12	10	655,000
GMRS	7,700	5	232,500	286,300	7	5	192,500
Aviation (Aircraft)	2,900	10	460,000	357,874	12	10	290,000
Marine (Coast)	285	10	132,500	143,150	50	50	142,500
Aviation (Ground)	900	10	165,000	143,150	16	15	135,000
Amateur Vanity Call Signs	14,300	10	207,320	214,725	1.50	1.50	214,500
AM Class A ^{4a}	61	1	257,400	250,512	4,107	4,100	250,100
AM Class B ^{4b}	1,471	1	3,057,875	3,113,508	2,117	2,125	3,125,875
AM Class C ^{4c}	869	1	1,078,650	1,109,411	1,277	1,275	1,107,975
AM Class D ^{4d}	1,541	1	3,642,325	3,686,107	2,392	2,400	3,698,400
FM Classes A, B1 & C3 ^{4e}	3,055	1	7,629,300	7,759,664	2,548	2,550	7,764,750
FM Classes B, C, C0, C1 & C2 ^{4f}	3,020	1	9,410,775	9,513,249	3,150	3,150	9,513,000
AM Construction Permits	65	1	44,100	35,787	551	550	35,750
FM Construction Permits ¹	120	1	101,925	84,000	700	700	84,000
Satellite TV	125	1	166,250	178,937	1,431	1,425	178,125
Satellite TV Construction Permit	4	1	2,010	3,579	895	895	3,580
VHF Markets 1-10	22	1	1,692,500	1,761,769	80,080	80,075	1,761,650
VHF Markets 11-25	25	1	1,772,550	1,836,977	73,479	73,475	1,836,875
VHF Markets 26-50	38	1	1,457,100	1,512,153	39,793	39,800	1,512,400
VHF Markets 51- 100	60	1	1,183,000	1,255,187	20,920	20,925	1,255,500

Fee Category	FY 2012 Payment Units	Years	FY 2011 Revenue Estimate	Pro-Rated FY 2012 Revenue Require- ment	Computed New FY 2012 Regulatory Fee	Rounded New FY 2012 Regula- tory Fee	Expected FY 2012 Revenue
VHF Remaining Markets	137	1	774,700	798,915	5,831	5,825	798,025
VHF Construction Permits ¹	2	1	12,200	11,650	5,825	5,825	11,650
UHF Markets 1-10	109	1	3,915,450	3,854,222	35,360	35,350	3,853,150
UHF Markets 11-25	106	1	3,525,650	3,456,927	32,613	32,625	3,458,250
UHF Markets 26-50	135	1	3,016,800	2,958,639	21,916	21,925	2,959,875
UHF Markets 51- 100	225	1	2,933,350	2,868,448	12,749	12,750	2,868,750
UHF Remaining Markets	247	1	864,600	847,308	3,430	3,425	845,975
UHF Construction Permits ¹	7	1	32,750	23,975	3,425	3,425	23,975
Broadcast Auxiliaries	24,800	1	268,500	286,300	12	10	248,000
LPTV/Translators/ Boosters/Class A TV	3,732	1	1,424,765	1,431,498	384	385	1,436,820
CARS Stations	375	1	173,900	178,937	477	475	178,125
Cable TV Systems	62,200,000	1	58,962,000	59,228,227	0.9522	0.95	59,090,000
Interstate Telecommunication Service Providers	\$39,700,000,000	1	148,125,000	148,875,000	0.003750	0.00375	148,875,000
CMRS Mobile Services (Cellular/Public Mobile)	313,000,000	1	50,660,000	52,156,612	0.1666	0.17	53,210,000
CMRS Messaging Services	3,400,000	1	336,000	272,000	0.0800	0.080	272,000
BRS ²	950	1	523,900	451,250	475	475	451,250
LMDS	475	1	161,200	225,625	475	475	225,625
Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common)	4,452,315	1	1,136,518	1,153,787	.259	.26	1,157,602
Submarine Cable Providers (see chart in Appendix C) ³	38.313	1	8,080,734	8,150,949	212,749	212,750	8,150,984
Earth Stations	3,250	1	875,875	894,686	275	275	893,750
Space Stations (Geostationary)	87	1	11,429,625	11,559,346	132,866	132,875	11,560,125

Fee Category	FY 2012 Payment Units	Years	FY 2011 Revenue Estimate	Pro-Rated FY 2012 Revenue Require- ment	Computed New FY 2012 Regulatory Fee	Rounded New FY 2012 Regula- tory Fee	Expected FY 2012 Revenue
Space Stations (Non-Geostationary)	6	1	850,500	858,899	143,150	143,150	858,900
***** Total Estimated Revenue to be Collected			336,599,047	339,840,896			340,568,811
***** Total Revenue Requirement			335,794,000	339,844,000			339,844,000
Difference			805,048	(3,104)			724,811

¹ The FM Construction Permit revenues and the VHF and UHF Construction Permit revenues were adjusted to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. The reductions in the FM Construction Permit revenues are offset by increases in the revenue totals for FM radio stations. Similarly, reductions in the VHF and UHF Construction Permit revenues are offset by increases in the revenue totals for VHF and UHF television stations, respectively.

² MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, ¶ 6 (2004).

³ The chart at the end of Attachment C lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the following proceedings: *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order (MD Docket No. 08-65, RM-11312), released March 24, 2009; and *Assessment and Collection of Regulatory Fees for Fiscal Year 2009 and Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rulemaking and Order (MD Docket No. 09-65, MD Docket No. 08-65), released on May 14, 2009.

⁴ The fee amounts listed in the column entitled "Rounded New FY 2012 Regulatory Fee" constitute a weighted average media regulatory fee by class of service. The actual FY 2012 regulatory fees for AM/FM radio station are listed on a grid located at the end of Attachment C.

ATTACHMENT C

FY 2012 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	Annual Regulatory Fee (U.S. \$'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	35
Microwave (per license) (47 CFR part 101)	20
218-219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	70
Marine (Ship) (per station) (47 CFR part 80)	10
Marine (Coast) (per license) (47 CFR part 80)	50
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	15
PLMRS (Shared Use) (per license) (47 CFR part 90)	15
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	15
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.50
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.17
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 27)	475
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	475
AM Radio Construction Permits	550
FM Radio Construction Permits	700
TV (47 CFR part 73) VHF Commercial	
Markets 1-10	80,075
Markets 11-25	73,475
Markets 26-50	39,800
Markets 51-100	20,925
Remaining Markets	5,825
Construction Permits	5,825
TV (47 CFR part 73) UHF Commercial	

Fee Category	Annual Regulatory Fee (U.S. \$'s)
Markets 1-10	35,350
Markets 11-25	32,625
Markets 26-50	21,925
Markets 51-100	12,750
Remaining Markets	3,425
Construction Permits	3,425
Satellite Television Stations (All Markets)	1,425
Construction Permits – Satellite Television Stations	895
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	385
Broadcast Auxiliaries (47 CFR part 74)	10
CARS (47 CFR part 78)	475
Cable Television Systems (per subscriber) (47 CFR part 76)	.95
Interstate Telecommunication Service Providers (per revenue dollar)	.00375
Earth Stations (47 CFR part 25)	275
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	132,875
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	143,150
International Bearer Circuits - Terrestrial/Satellites (per 64KB circuit)	.26
International Bearer Circuits - Submarine Cable	See Table Below

FY 2012 SCHEDULE OF REGULATORY FEES (continued)

FY 2012 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	\$725	\$600	\$550	\$625	\$700	\$875
25,001 – 75,000	\$1,475	\$1,225	\$850	\$950	\$1,425	\$1,550
75,001 – 150,000	\$2,200	\$1,525	\$1,125	\$1,600	\$1,950	\$2,875
150,001 – 500,000	\$3,300	\$2,600	\$1,675	\$1,900	\$3,025	\$3,750
500,001 – 1,200,000	\$4,775	\$3,975	\$2,800	\$3,175	\$4,800	\$5,525
1,200,001 – 3,000,00	\$7,350	\$6,100	\$4,200	\$5,075	\$7,800	\$8,850
>3,000,000	\$8,825	\$7,325	\$5,325	\$6,350	\$9,950	\$11,500

FY 2012 SCHEDULE OF REGULATORY FEES
International Bearer Circuits - Submarine Cable

Submarine Cable Systems (capacity as of December 31, 2011)	Fee amount	Address
< 2.5 Gbps	\$13,300	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
2.5 Gbps or greater, but less than 5 Gbps	\$26,600	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
5 Gbps or greater, but less than 10 Gbps	\$53,200	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
10 Gbps or greater, but less than 20 Gbps	\$106,375	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
20 Gbps or greater	\$212,750	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000

ATTACHMENT D

Sources of Payment Unit Estimates for FY 2012

In order to calculate individual service fees for FY 2012, we adjusted FY 2011 payment units for each service to more accurately reflect expected FY 2012 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (“ULS”), International Bureau Filing System (“IBFS”), Consolidated Database System (“CDBS”) and Cable Operations and Licensing System (“COALS”), as well as reports generated within the Commission such as the Wireline Competition Bureau’s *Trends in Telephone Service* and the Wireless Telecommunications Bureau’s *Numbering Resource Utilization Forecast*.

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2012 estimates with actual FY 2011 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2012 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2012 payment units are based on FY 2011 actual payment units, it does not necessarily mean that our FY 2012 projection is exactly the same number as in FY 2011. We have either rounded the FY 2012 number or adjusted it slightly to account for these variables.

FEE CATEGORY	SOURCES OF PAYMENT UNIT ESTIMATES
Land Mobile (All), Microwave, 218-219 MHz, Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed	Based on Wireless Telecommunications Bureau (“WTB”) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 11 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 11 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2011 payment units.
UHF/VHF Television Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2011 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2011 payment units.
LPTV, Translators and Boosters, Class A Television	Based on CDBS data, adjusted for exemptions, and actual FY 2011 payment units.
Broadcast Auxiliaries	Based on actual FY 2011 payment units.
BRS (formerly MDS/MMDS)	Based on WTB reports and actual FY 2011 payment units.
LMDS	Based on WTB reports and actual FY 2011 payment units.

Cable Television Relay Service ("CARS") Stations	Based on data from Media Bureau's COALS database and actual FY 2011 payment units.
Cable Television System Subscribers	Based on publicly available data sources for estimated subscriber counts and actual FY 2011 payment units.
Interstate Telecommunication Service Providers	The Wireline Competition Bureau projected amount of calendar year 2011 revenues that will be reported on 2012 FCC Form 499-A worksheets due in April, 2012. Some of the projections are based on FCC Form 499-Q data for the four quarters of calendar year 2011.
Earth Stations	Based on International Bureau ("IB") licensing data and actual FY 2011 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2011 payment units.
International Bearer Circuits	Based on IB reports and submissions by licensees.
Submarine Cable Licenses	Based on IB license information.

ATTACHMENT E**Factors, Measurements, and Calculations That Determine Station
Signal Contours and Associated Population Coverages****AM Stations**

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane ("RMS") figure milliVolt per meter (mV/m) @ 1 km for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in §§73.150 and 73.152 of the Commission's Rules.⁴³ Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3.⁴⁴ Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours was used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power ("ERP") (kW) and respective height above average terrain ("HAAT") (m) combination was used. Where the antenna height above mean sea level ("HAMSL") was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50-50) propagation curves specified in 47 C.F.R. §73.313 of the Commission's Rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials.⁴⁵ The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

⁴³ 47 C.F.R. §§ 73.150 and 73.152.

⁴⁴ See Map of Estimated Effective Ground Conductivity in the United States, 47 C.F.R. § 73.190 Figure R3.

⁴⁵ 47 C.F.R. § 73.313

ATTACHMENT F

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (“RFA”),¹ the Commission prepared an Initial Regulatory Flexibility Analysis (“IRFA”) in its *Notice of Proposed Rulemaking* (NPRM) to determine the possible economic impact on small entities by the policies and rules proposed in its NPRM. Written public comments were sought on the FY 2012 fee proposal, including on the IRFA. This Final Regulatory Flexibility Analysis (“FRFA”) conforms to the RFA.²

I. Need for, and Objectives of, the Report and Order:

2. This rulemaking proceeding was initiated by the Commission to revise its Schedule of Regulatory Fees to collect \$339,844,000, the amount that Congress has required the Commission to recover in regulatory fees. This Report and Order revises the fee rates in its Schedule of Regulatory Fees to reflect changes in estimated unit counts, if any, and the amount required by the Commission to collect in regulatory fees. Pursuant to rules adopted in this Order, the FCC will collect these fees in September 2012 in a manner that is efficient (e.g. using the Commission’s various electronic filing and payment systems) and without undue public burden (less reliability on paper transactions and more reliability on pre-loaded payment data).

3. Section 9(a)(1) of the Communications Act of 1934, as amended (the “Act”) directs the Commission to collect regulatory fees “to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.”³ Section 9(a)(2) stipulates that regulatory fees for the enumerated activities “shall be collected only if, and only in the total amounts, required in Appropriation Acts,” and must “be established in amounts that will result in collection, during each fiscal year, of any amount that can be reasonably be expected to equal the amount appropriated” for the performance of the activities enumerated in section 9(a)(1) during that fiscal year. In this annual regulatory fee proceeding, we retain many of the current methods, policies, and procedures for collecting section 9 regulatory fees adopted by the Commission in prior years. Consistent with our established practice, we intend to collect these regulatory fees during a September 2012 filing window in order to collect the required amount by the end of our fiscal year.⁴

4. In this *FY 2012 Report and Order*, we address the following issues: 1) incorporating 2010 Census data into our broadcast population data, 2) assessing a regulatory fee for each broadcasting facility operating either in an analog or digital mode (but not both) for Low Power, Class A, and TV Translators/Boosters, 3) maintaining the FY 2012 Interstate Telecommunications Service Provider (ITSP) fee rate at the same level as in FY 2011, 4) using an online filing system for the filing of requests for a refund, waiver, fee reduction, or deferment of payment of an application or regulatory fee, and 5) maintaining the Commercial Mobile Radio Service (“CMRS”) Messaging Service at the rate of

¹ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612 has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) (“CWAAA”). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”).

² 5 U.S.C. § 604.

³ 47 U.S.C. § 159(a).

⁴ The Commission also expects to release in the near future a *Notice of Proposed Rulemaking* that will propose to update our current cost allocation percentages and revise our cost allocation methodology. We expect to implement any changes that result from this rulemaking in FY 2013; they do not affect the fees set in this *FY 2012 Report and Order*.

\$.08 per subscriber.

- Regulatory Fee Obligations for AM and FM Radio Stations: The fee methodology for AM and FM radio stations is based on a number of factors, including facility attributes (e.g. power, channel/frequency) and the population served by each station. The calculation of the population served is determined by applying current United States Census Bureau data to the station's technical and engineering data, as detailed in Attachment E of this Report and Order. In FY 2012, the Commission will incorporate the results of the 2010 Census data into our broadcast population data, which could precipitate a change in population count for some radio stations. These population counts, along with the station's class and type of service, are the basis for determining regulatory fees.
- Regulatory Fee Obligations for Digital Low Power, Class A, and TV Translators/Boosters: The digital transition to full-service television stations was completed on June 12, 2009, but Low Power, Class A, and TV Translators/Boosters are not required to make the digital transition until September 1, 2015. Historically, we have only considered the digital transition in the context of regulatory fees applicable to full-service television stations. Consequently, the "digital only" exemption does not apply to Low Power, Class A, and TV Translator/Booster facilities. Because the digital transition in the Low Power, Class A, and TV Translator/Booster facilities is still voluntary, these facilities may transition from analog to digital service at varying times prior to September 1, 2015. During this period of transition, licensees of Low Power, Class A, and TV Translator/Booster facilities may be operating in analog mode, in digital mode, or in an analog and digital simulcast mode. In the absence of receiving any comments, we conclude that a single fee will be assessed for each facility regardless of whether it transmits in analog or digital mode, digital mode, or simulcasting in both analog and digital modes. As more of these facilities convert to digital mode, the Commission will revisit how regulatory fees will be assessed.
- Regulatory Fee Obligations of Interstate Telecommunications Service Providers (ITSP): In our *FY 2011 Report and Order*, we assessed the Interstate Telecommunications Service Provider ("ITSP") industry a regulatory fee of \$.00375 per revenue dollar. This fee reflected the Commission's decision to limit the increase in ITSP regulatory fees in light of the continuing decrease in the revenue base upon which ITSP regulatory fees are calculated, and pending a more comprehensive rebalancing of ITSP fees as part of our reexamination of the factual and methodological predicates of our regulatory fee program. This reexamination will commence shortly. In our *FY 2012 Notice of Proposed Rulemaking*, we proposed to assess FY 2012 ITSP regulatory fees at the same fee rate as in FY 2011, and to allocate the remaining revenue requirement across all other fee categories.⁵ We received one comment in support of our proposal. Because we will initiate a separate proceeding in the near future to examine these and other issues and expect to utilize any new data or methodologies adopted in setting next year's regulatory fees, we conclude that in the interim the FY 2012 ITSP fee rate should be maintained at the FY 2011 rate of .00375.
- Improving Public Information on Waiver Requests and Decisions: In our *FY 2012 Notice of Proposed Rulemaking*, we sought comment on requiring regulatees filing a request for a refund, waiver, fee reduction, or deferment of payment of an application or regulatory fee to use an online filing system rather than submitting their requests in hardcopy

⁵ See *FY 2012 Regulatory Fees NPRM*, at para. 17.

format.⁶ We believe that an online filing system will complement other existing online Commission systems already in place, such as the Broadcast Radio and Television Electronic Filing System (more commonly referred to as CDBS), the Cable Operations and Licensing System (COALS), and Consumer Complaint Forms. The resulting fee waiver filing system will include such documents as the filed request, any relevant supporting documentation, and the resulting decision. We also proposed to apply the provisions of section 0.459 to requests that electronically-filed material be withheld from public inspection.⁷ We received no comments on this issue. We therefore adopt our proposal and require that all requests for refunds, waivers, fee reductions, or deferments of payment be filed using an online system. We direct the Office of Managing Director to take the necessary steps to assist regulatees in transitioning to electronic filing.

- Commercial Mobile Radio Services (“CMRS”) Messaging Services: In our *FY 2012 Notice of Proposed Rulemaking*, the Commission proposed to maintain the CMRS Messaging fee rate at \$.08 per subscriber. We received one comment in support of our action. Because the prevailing circumstances that first initiated our action in FY 2003⁸ still exists today, we find it appropriate that the FY 2012 CMRS Messaging regulatory fee remain at a rate of \$0.08 per subscriber.
- Administrative and Operational Issues: In FY 2009, we instituted a mandatory filing requirement using the Commission’s electronic filing and payment system (also known as “Fee Filer”).⁹ Regulatees filing their annual regulatory fee payments were required to begin the process by entering the Commission’s Fee Filer system with a valid FCC Registration Number (“FRN”) and password.¹⁰ This change, which required regulatees to use Fee Filer for the *filing* of annual regulatory fees, not the *payment* of such regulatory fees¹¹ was beneficial to both licensees and to the Commission. For licensees, the mandatory use of Fee Filer eliminates the need to manually complete and submit a hardcopy Form 159, and for the Commission, the data in electronic format makes it much easier to process payments efficiently and effectively. We received no specific comment to our general inquiry. Accordingly, the Commission will continue its efforts to promote greater efficiency in its regulatory fee notification and collection processes, subject to appropriate notice and comment.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA:

5. No parties have raised issues in response to the IRFA.

⁶ See *FY 2012 Regulatory Fees NPRM* at para. 18.

⁷ Specifically, section 0.457(a) (2) through (g) describe, *inter alia*, how confidential material should be submitted electronically, what showings must be made to justify withholding electronically-submitted information from public inspection, and how the Commission will resolve confidentiality requests.

⁸ Beginning in FY 2003, the Commission maintained the paging regulatory fee rate at \$.08 per subscriber, the same level as in FY 2002, and it has maintained this level of \$.08 per subscriber for all subsequent years. See *Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order*, 18 FCC Rcd 15988 ¶¶ 21-22 (2003) (*FY 2003 Report and Order*).

⁹ See *Assessment and Collection of Regulatory Fees for Fiscal Year FY 2009, Report and Order* 24 FCC Rcd 10301 at paras. 20 and 21 (“*FY 2009 Report and Order*”).

¹⁰ In order to do this, licensees must have a current and valid FRN address on file in the Commission’s Registration System (CORES).

¹¹ Regulatees have different options when making a payment, including credit card, check, and wire transfer.

III. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply:

6. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.¹² The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹³ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹⁴ A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.¹⁵

7. **Small Businesses.** Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.¹⁶

8. **Small Businesses, Small Organizations, and Small Governmental Jurisdictions.** Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards.¹⁷ First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.¹⁸ In addition, a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”¹⁹ Nationwide, as of 2007, there were approximately 1,621,315 small organizations.²⁰ Finally, the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”²¹ Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States.²² We estimate that, of this total, as many as 88,506 entities may qualify as “small governmental jurisdictions.”²³ Thus, we estimate that

¹² 5 U.S.C. § 603(b)(3).

¹³ 5 U.S.C. § 601(6).

¹⁴ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

¹⁵ 15 U.S.C. § 632.

¹⁶ See SBA, Office of Advocacy, “Frequently Asked Questions,” <http://web.sba.gov/faqs> (accessed Jan. 2009).

¹⁷ See 5 U.S.C. §§ 601(3)–(6).

¹⁸ See SBA, Office of Advocacy, “Frequently Asked Questions,” web.sba.gov/faqs (last visited May 6, 2011; figures are from 2009).

¹⁹ 5 U.S.C. § 601(4).

²⁰ INDEPENDENT SECTOR, THE NEW NONPROFIT ALMANAC & DESK REFERENCE (2010).

²¹ 5 U.S.C. § 601(5).

²² U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES: 2011, Table 427 (2007)

²³ The 2007 U.S. Census data for small governmental organizations indicate that there were 89,476 “Local Governments” in 2007. (U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES 2011, Table 428.) The criterion by which the size of such local governments is determined to be small is a population of 50,000. However, since the Census Bureau does not specifically apply that criterion, it cannot be determined with precision how many of such local governmental organizations is small. Nonetheless, the inference seems reasonable that substantial number of these governmental organizations has a population of less than 50,000. To look at Table 428 in conjunction with a related set of data in Table 429 in the Census’s Statistical Abstract of the U.S., that (continued....)

most governmental jurisdictions are small.

9. **Incumbent Local Exchange Carriers (Incumbent LECs).** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.²⁴ Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.²⁵ Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.²⁶ Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the *NPRM*. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small providers.²⁷

10. **Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.²⁸ Census Bureau data for 2007 show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities.²⁹ According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.³⁰ Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees.³¹ In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.³² In

(Continued from previous page)

inference is further supported by the fact that in both Tables, many entities that may well be small are included in the 89,476 local governmental organizations, e.g. county, municipal, township and town, school district and special district entities. Measured by a criterion of a population of 50,000 many specific sub-entities in this category seem more likely than larger county-level governmental organizations to have small populations. Accordingly, of the 89,746 small governmental organizations identified in the 2007 Census, the Commission estimates that a substantial majority is small. 23 13 C.F.R. § 121.201, NAICS code 517110.

²⁵ See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) ("*Trends in Telephone Service*").

²⁶ See *id.*

²⁷ See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-fds_name=EC0700A1&-geo_id=&-skip=600&-ds_name=EC0751SSSZ5&-lang=en.

²⁸ 13 C.F.R. § 121.201, NAICS code 517110.

²⁹ See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-fds_name=EC0700A1&-geo_id=&-skip=600&-ds_name=EC0751SSSZ5&-lang=en.

³⁰ See *Trends in Telephone Service*, at tbl. 5.3.

³¹ *Id.*

³² *Id.*

addition, 72 carriers have reported that they are Other Local Service Providers.³³ Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees.³⁴ Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the NPRM.

11. **Local Resellers.** The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.³⁵ Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.³⁶ Thus under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.³⁷ Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.³⁸ Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Notice.

12. **Toll Resellers.** The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.³⁹ Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000.⁴⁰ Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data,⁴¹ 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our proposed rules.

13. **Payphone Service Providers (PSPs).** Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁴² Census Bureau data for 2007 shows that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these PSPs can be

³³ *Id.*

³⁴ *Id.*

³⁵ 13 C.F.R. § 121.201, NAICS code 517911.

³⁶ http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=800&-ds_name=EC0751SSSZ5&-_lang=en.

³⁷ See *Trends in Telephone Service*, at tbl. 5.3.

³⁸ *Id.*

³⁹ 13 C.F.R. § 121.201, NAICS code 517911.

⁴⁰ http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=800&-ds_name=EC0751SSSZ5&-_lang=en.

⁴¹ *Trends in Telephone Service*, at tbl. 5.3.

⁴² 13 C.F.R. § 121.201, NAICS code 517110.